IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.MC.No. 2749 of 2007()

CRIME NO,. 421/99 OF TIRUR POLICE
CC.25/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

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PETITIONER: ACCUSED

MOHAMMED YASIN,S/O.ABOOBACKER,
MUSLIYAR VEETTIL, MANGALAM AMSOM DESOM,
TIRUR TALUK,MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: STATE AND DEFACTO COMPLAINANT
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1. STATE OF KERALA REPRESENTED BY
STATION HOUSE OFFICER,TIRUR POLICE STATION THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

2. KARUPPAYIL SIVADASAN,S/O. BALAKRISHNAN,
MANGALAM AMSOM DESOM,CHENNARA, TIRUR TALUK,
MALAPPURAM DISTRICT.

R2 BY ADV. SRI.P.M.AMMU
R1 BY PUBLIC PROSECUTOR SRI. KAMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/09/2007, A/W. CRMC 2752/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 2749 & 2752 of 2007

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Dated this the 7th day of September, 2007

O R D E R

The petitioners in these Crl.M.Cs. are accused 2 and 3 in a prosecution for offences punishable under Sections 283 and 323 I.P.C. Altogether there were three accused persons. The first accused faced trial. He was found guilty and convicted under Section 323 I.P.C. He was acquitted under Section 283 I.P.C. The case against the petitioners were split up and re-filed. The petitioners have subsequently appeared before the learned Magistrate, it is submitted. According to the petitioners, they are employed abroad. They want to see the end of these prosecutions against them. They want to plead guilty under Section 283 I.P.C. The defacto complainant has compounded the offence punishable under Section 323 I.P.C. But the petitioners are not able to get their plea of guilty recorded and composition accepted in as much as there is no incumbent occupying the Chair of the Magistrate. The learned Munsiff of Tirur is holding charge of the Magistrate also, it is submitted.

2. The learned counsel for the petitioners, after discussions at the Bar, submits that the petitioners shall be satisfied if this court directs the learned Munsiff holding charge of the Court of the Magistrate to consider the plea of guilty of the petitioners under Section 283 I.P.C. and the request for composition of the offence under Section 323 I.P.C.

3. I consider the said request to be absolutely reasonable. Notwithstanding the fact that the learned Munsiff may be saddled with the responsibility of both courts, I am satisfied that the learned Munsiff holding charge as Magistrate must forthwith consider the prayer of the petitioners to permit them to plead guilty for offence under Section 283 and to pray for composition of the offence under Section 323 I.P.C.

4. The learned counsel for the petitioners submits that the petitioners have to leave for their place of employment abroad and in these circumstances such plea of guilty under Section 283 and the prayer for composition under Section 323 I.P.C. may be permitted to be made through their counsel. I need only observe that if proper steps are taken and proper applications are made, the learned Munsiff must consider such request without insisting on the personal presence of the petitioners.

5. With the above observations, these Crl.M.Cs. are allowed to the above extent.

(R. BASANT)
Judge

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